

EXPEDITED CONSIDERATION REQUESTED

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

240943
ENTERED
Office of Proceedings
June 20, 2016
Part of
Public Record

FINANCE DOCKET NO. 36041

**PETITION OF TESORO REFINING & MARKETING COMPANY, LLC
FOR DECLARATORY ORDER**

**MOTION OF THE SWINOMISH INDIAN TRIBAL COMMUNITY
TO EXTEND TIME FOR REPLY**

Swinomish Indian Tribal Community (the “Tribe”), a Federally-recognized tribe organized pursuant to Section 16 of the Indian Reorganization Act of 1934, 25 U.S.C. § 476, hereby submits this Motion to Extend Time for Reply in response to the Petition for Declaratory Order filed on June 3, 2016 (the “Petition”), in the above-referenced docket by Tesoro Refining and Marketing Company, LLC (“Tesoro”).¹ Counsel for the Tribe contacted counsel for Tesoro regarding whether or not Tesoro would consent to and not oppose this Motion on Friday, June 17, 2016. Counsel for the Tribe again contacted Tesoro counsel on Monday, June 20, 2016 regarding whether or not Tesoro would consent to this Motion for an expansion of time to respond. At that time, counsel for the Tribe advised Tesoro counsel that the Motion for Summary Judgment was being renoted for a later date,

¹ The Tribe is not a party to this proceeding and does not believe its intervention is necessary for the limited purpose of replying to Tesoro’s Petition. By filing this Motion to Extend, the Tribe does not waive, but expressly reserves and affirms, its sovereign immunity from unconsented suit.

which date would be discussed with BNSF counsel on Tuesday, June 21, 2106. Counsel for Tesoro expressed that it would oppose this motion to extend time to reply. .

The Tribe requests a 45-day extension of the time period for responding to Tesoro's Petition for good cause, including lack of prejudicial effect on any other potential interested parties.

Pursuant to the Board's rules at 49 C.F.R. § 1104.13(a), a reply to Tesoro's Petition would be due no later than June 23, 2016. Under 49 C.F.R. § 1104.7(b), the Board has discretion to extend the time period for replies upon request and with good cause.²

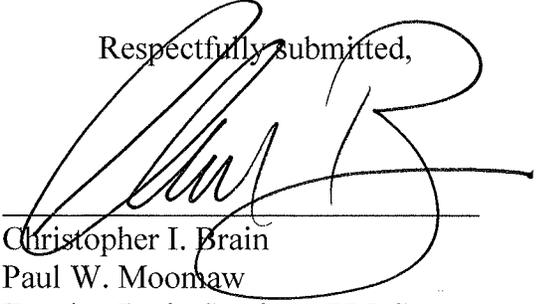
Good cause exists here because neither Tesoro nor other potential interested parties will be prejudiced by an extension.³ Additionally, the Tribe seeks an extension to have sufficient time to review and respond to the Petition, which is voluminous. The Petition includes several arguments and includes three exhibits, including a verified statement with redacted information. As such, the Tribe requires additional time to evaluate Tesoro's arguments, authorities, and evidence, and to prepare a reply.

WHEREFORE, and in view of the foregoing, the Tribe respectfully requests the Board to extend the time for responding to Tesoro's Petition for Declaratory Order by 45 days, to September 1, 2016.

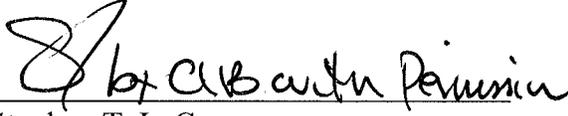
² The Tribe respectfully requests the Board waive the 10-day notice requirement under 49 C.F.R. § 1104.7(b) because Tesoro filed the Petition without providing any advance notice to the Tribe, the Tribe's counsel are not regular STB practitioners, and the Tribe has been evaluating the Petition and the Board's rules in determining how to appropriately respond to the Petition.

³ The Tribe received notice of intervention and Petition by Equilon Enterprises LLC d/b/a Shell Oil Products US for Declaratory Order on Monday, June 20, 2016.

Respectfully submitted,



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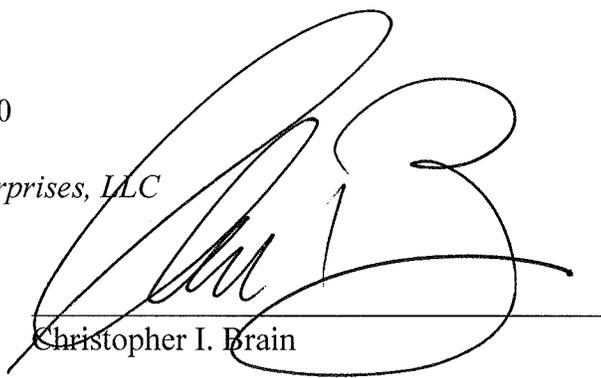
Dated: June 20, 2016

CERTIFICATE OF SERVICE

I hereby certify that this 20th day of June, 2016, I have a copy of the foregoing Unopposed Motion to Extend Time for Reply to be served by first class mail, postage pre-paid, upon the following counsel of record:

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